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ABSTRACT

Affirmative action is examined from various points of view. A distinction is made between the basic concepts and legal rationale of affirmative action and the many specific laws, regulations, and practices that have developed under this label. The magnitude of the problem that affirmative action programs were intended to solve is measured in some general terms. The actual results achieved and the general trends set in motion by these programs are considered. Finally, the implications of affirmative action policies for those directly affected and for society in general are weighed. The study deals with race and sex differentials in employment, pay, and promotion prospects. In this study of the effectiveness and necessity of affirmative action programs the academic profession is used because it is an area in which crucial career characteristics can be quantified and have been researched. The study concludes that between the original concept of affirmative action and the goals and timetables actually imposed there is an ill-conceived mixture of unsupported assumptions and burdensome requirements that remain ineffective because of their indiscriminate nature. (JMF)

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Evaluative Studies

AFFIRMATIVE ACTION RECONSIDERED

Was it necessary in academia?

Thomas Sowell

U.S. DEPARTMENT OF HEALTH
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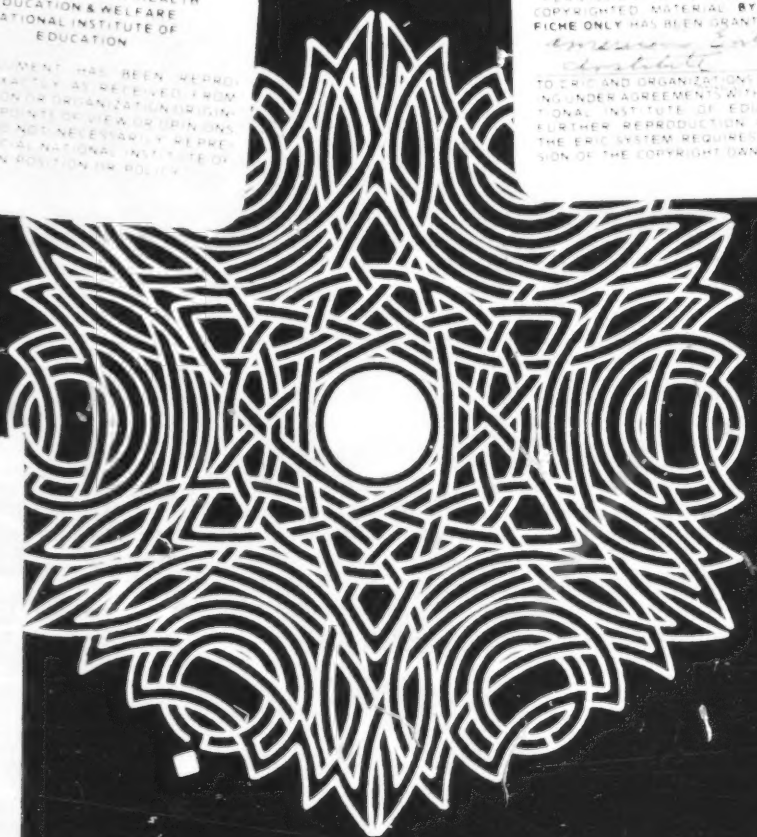

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Was it necessary in academia?

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AFFIRMATIVE ACTION RECONSIDERED

INTRODUCTION

Labels and images have become central in the controversies surrounding affirmative action. To some people, affirmative action means making equal opportunity concrete, while to others it means reverse discrimination. To some people, affirmative action is only a partial compensation for monumental wrongs, while to others it just means replacing competent whites with incompetent blacks. The reality of affirmative action is much more complex than the labels and images, both in concept and in practice.

To make these intricate and emotionally charged issues manageable, it is necessary (1) to distinguish the basic concepts and legal rationale of affirmative action from the many specific laws, regulations, and practices that have developed under the affirmative action label, (2) to measure in some general terms the magnitude of the problem that affirmative action programs were intended to solve or ameliorate, (3) to consider the actual results achieved and the general trends set in motion by these programs, and finally (4) to weigh the implications of affirmative action policies for those directly affected and for society in general.

This study draws upon the large general literature on race and sex differentials in employment, pay, and promotion prospects. In addition, it presents some original data specifically focused on *academic* employment, pay, and promotion. For many occupa-

I am grateful to the Liberty Fund for the research grant that made this study possible.

tions, the fact that some of the factors determining individual qualifications for jobs are intangible makes it difficult to determine how much of the observed difference in end results is due to discriminatory treatment and how much to differences in the relevant capabilities. For the academic profession, however, many of the job qualifications that are either conceptually or statistically elusive in other occupations are spelled out—most bluntly in the "publish or perish" rule. For example, the possession or nonpossession of a Ph.D. is crucial to an academic career, and the quality of the department at which the Ph.D. was earned is of major importance at the outset of a career and exerts a continuing influence for years thereafter.[1] Comprehensive data available from the American Council on Education cover both the degree level of academic individuals and the respective disciplines' own rankings of the various university departments which issue those degrees, as well as the publication records and academic salaries of individuals by race and sex. In addition, the National Academy of Sciences has made available data collected by the National Science Foundation on holders of doctoral degrees (Ph.D.s, M.D.s, and other doctorates) in various fields by race and sex. In short, the academic profession offers a unique combination of known job requirements and salary data with which to determine to what extent group differences in pay represent group differences in job requirements rather than employer discrimination.

I. THE CONCEPT

Among the many distinctions that need to be made is the crucial distinction between the *general principle* of affirmative action and the specific actions taken by the courts and administrative agencies. The general principle behind affirmative action is that a court order to "cease and desist" from some harmful activity may not be sufficient to undo the harm already done or even to prevent additional harm as the result of a pattern of events set in motion by the previous illegal activity. This general principle of affirmative action goes back much further than the civil rights legislation of the 1960s and extends well beyond questions involving ethnic minorities or women. In 1935, the Wagner Act prescribed "affirma-

[1] Theodore Caplow and Reece J. McGee, *The Academic Marketplace* (New York: Basic Books, Inc., 1961), p. 225; David G. Brown, *The Mobile Professors* (Washington, D. C.: American Council on Education, 1967), p. 97.

tive action" as well as "cease-and-desist" remedies against employers whose anti-union activities had violated the law.[1] Thus, in the landmark *Jones & Laughlin Steel* case which established the constitutionality of the act, the National Labor Relations Board ordered the company not only to stop discriminating against employees who were union members, but also to post notices to that effect in conspicuous places and to reinstate unlawfully discharged workers with back pay.[2] Had the company merely been ordered to cease and desist from economic (and physical) retaliation against union members, the *future* effect of its *past* intimidation would have continued to inhibit the free-choice elections guaranteed by the National Labor Relations Act.

Racial discrimination is another obvious area where merely to "cease and desist" is not enough. If a firm has engaged in racial discrimination for years and has an all-white work force as a result, then simply to stop explicit discrimination will mean little as long as the firm continues to hire its current employees' friends and relatives through word-of-mouth referral. (Many firms hire in just this way, regardless of their racial policies.) Clearly the area of racial discrimination is one in which positive or affirmative steps *of some kind* seem reasonable—which is not to say that the particular policies actually followed make sense.

Many different policies have gone under the general label of affirmative action, and many different institutions—courts, executive agencies, and even private organizations—have been involved in formulating or interpreting the meaning of the label. The conflicting tendencies and pressures of these various institutions have shifted the meaning of affirmative action and produced inconsistent concepts as well. There is no way to determine *the* meaning of "affirmative action." All that can be done is to examine the particulars—the concepts, the intentions, and the actual effects.

In a society where people come from a wide variety of backgrounds and where some backgrounds have been severely limited by past discrimination, the very definition of equality of opportunity is elusive. For example, a seniority system in a company which previously refused to hire minority individuals means that present and future discrimination occur because of past discrimi-

[1] Section 10(c) of the National Labor Relations Act of 1935.

[2] Harry A. Millis and Emily Clark Brown, *From the Wagner Act to Taft-Hartley* (Chicago: University of Chicago Press, 1950), p. 97.

nation. In 1969, the court of appeals struck down such a system on grounds of its current discriminatory effect.[3] In another 1969 case, the Supreme Court struck down a mental test for voters in a community with a long history of providing segregated and inferior education for Negroes.[4] Again the rationale was that the test represented present discrimination, considering the community's past behavior. This case touches the crucial question of what to do when the effects of past discrimination are reflected in current individual capabilities. Is equal opportunity itself discriminatory under such circumstances? If so, is anything more than equality of treatment justifiable under the Fourteenth Amendment and corollary statutes and court rulings? As important as the question of whether a legal basis exists for any compensatory or preferential treatment is the question of who should bear the inevitable costs of giving some citizens more than equal treatment. A question may also be raised as to whether compensatory or preferential treatment really serves the long-run interests of the supposed beneficiaries.

The legislative history of the Civil Rights Act of 1964 shows that many of these concerns and dilemmas were present from the outset. Senator Hubert Humphrey (Democrat, Minnesota), in helping to steer this legislation through Congress, attempted to meet criticism by pointing out that the act "does not require an employer to achieve any kind of racial balance in his work force by giving any kind of preferential treatment to any individual or group."[5] He said that there must be "an intention to discriminate" before an employer can be considered in violation of the law and that the "express requirement of intent" was meant to prevent "inadvertent or accidental" conditions from leading to "court orders."[6] Senator Joseph Clark (Democrat, Pennsylvania), another supporter, made it clear that the burden of proof was to be on the Equal Employment Opportunity Commission (EEOC) to "prove by a preponderance" that a "discharge or other personnel action was because of race"; Senator Clark added categorically: "Quotas are themselves discriminatory."[7]

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[3] Local 189, United Papermakers and Paperworkers, AFL-CIO vs. United States, 416 F.2d 980 (1969).

[4] Gaston County vs. United States, 395 U.S. 285 (1969).

[5] U.S. Equal Employment Opportunity Commission, *Legislative History of Titles VII and XI of Civil Rights Act of 1964* (Washington, D. C.: U.S. Government Printing Office, n.d.), p. 3005. Hereafter referred to as *Legislative History*.

[6] Ibid., p. 3006.

[7] Ibid., p. 3015.

Congress also faced the question of what to do about groups whose historic disadvantages left them in a difficult position when competing on tests with members of the general population. Senator John Tower (Republican, Texas) cited, as an example of what he was opposed to, a case in Illinois where a state agency had forced a company to abandon an ability test which was considered "unfair to 'culturally deprived and disadvantaged groups.'" [8] Senator Clifford Case (Republican, New Jersey) replied that "no member of the Senate disagrees" with Tower on this point, and Senator Humphrey affirmed that ability tests "are legal unless used for the purpose of discrimination." [9] Humphrey rejected Tower's proposed explicit amendment on this point because he considered it "redundant": "These tests are legal. They do not need to be legalized a second time." [10] Senator Case characterized the Illinois state agency's actions as an "abuse" [11] and insisted that the Civil Rights Act did not embody "anything like" the principle of the Illinois case.[12] Humphrey brushed aside the Illinois case as "the tentative action of one man," which he was sure the Illinois commission as a whole would "never" accept.[13]

Despite the clear intent of both the supporters and opponents of the 1964 Civil Rights Act, the actual administration of the law has led precisely in the direction which its sponsors considered impossible. The burden of proof has been put on the employer whose work force does not reflect the racial or sex proportions deemed appropriate by the federal agencies administering the law. The chairman of the Equal Employment Opportunity Commission has demanded of employer witnesses at public hearings what has been "the action taken to hire more minority people." [14] The commission's position is that "any discussion of equal employment opportunity programs is meaningful only when it includes consideration of their results—or lack of results—in terms of

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[8] Ibid., p. 3134.

[9] Ibid., p. 3160.

[10] Ibid.

[11] Ibid., p. 3131.

[12] Ibid., p. 3161.

[13] Ibid., p. 3131.

[14] *Hearings before the United States Equal Employment Opportunity Commission on Discrimination in White Collar Employment.* Hearings held in New York, New York, January 15-18, 1968 (Washington, D. C.: U.S. Government Printing Office, n.d.), p. 110. Hereinafter cited as *EEOC Hearings, New York, 1969.*

actual numbers of jobs for minorities and women. . . ." [15] Numbers and percentages are repeatedly invoked to show "discrimination" [16]—without any reference to individual cases or individual qualifications and with percentages below EEOC's expectations being characterized as "exclusions" or "underutilization." The notion of qualified applicants has been expanded to mean "qualified people to train" [17]—that is, people lacking the requirements of the job whom the employer would have to train at his own expense. Contrary to the congressional debates, the burden of proof has been put on the employer to show the validity of the tests used,[18] and the notion of "tests" has been expanded to include job criteria in general, whether embodied in a test or not.[19] As for employer intentions, a poster prepared by the EEOC itself includes among ten true-false questions the statement, "An employer only disobeys the Equal Employment Opportunity laws when it is acting intentionally or with ill motive" [20]—and the answer to that question is *false*. Despite Senator Humphrey's assurances about "express requirement of intent," legal action can be taken on the basis of "inadvertent or accidental" conditions.

The EEOC is only one of many federal agencies administering the Civil Rights Act in general or the affirmative action programs in particular. There are overlapping jurisdictions of the Department of Labor, the Department of Health, Education and Welfare, the Department of Justice, the EEOC, and the federal courts.[21] There are also regional offices of all these agencies which vary significantly in their respective practices.[22] Moreover, when one federal agency approves—or requires—a given course of action, following such an approved course of action in no way protects the employer from being used by another federal agency or by

[15] *Hearings before the Equal Employment Opportunity Commission on Utilization of Minority and Women Workers in Certain Major Industries.* Hearings held in Los Angeles, California, March 12-14, 1969. Hereinafter cited as *EEOC Hearings, Los Angeles, 1969.*

[16] *EEOC Hearings, New York, 1969,* pp. 1, 4-13, 161, 169, 444.

[17] Ibid., p. 303.

[18] "Employment Discrimination and Title VII of the Civil Rights Act of 1964," *Harvard Law Review,* March 1971, pp. 1132-1139.

[19] Richard A. Lester, *Antibias Regulation of Universities* (New York: McGraw-Hill Company, 1974), p. 126n.

[20] G.P.O. 870-933.

[21] Lester, *Antibias Regulation,* pp. 3-4.

[22] Ibid., pp. 89-91.

private individuals because of those very actions.[23] Indeed, federal agencies have sued one another under this act.[24] In short, the meaning of the act is not clear even to those intimately involved in its administration.

The courts have not gone as far as the administrative agencies in forcing numerical "goals and timetables" on employers. Numerical specifications have typically been invoked by courts only where there has been demonstrable discrimination by the particular employer in question—not simply where there are "wrong" racial proportions. In this specific context, numerical goals are "a starting point in the process of shaping a remedy" for "past discriminatory hiring practices" by the employer to whom the court order applies.[25] In the landmark case of *Griggs v. Duke Power Company*, the Supreme Court included the company's past record of racial discrimination as a reason why the company could not use tests which (1) eliminated more black job applicants than white job applicants and (2) had no demonstrated relationship to actual job performance.[26] In general, the courts have rejected the notion that "any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. . . ."[27]

Legal remedies under the Civil Rights Act and related executive orders of the President range from cease-and-desist orders through individual reinstatement and group preferential hiring to the cutting off of all federal contracts to the offending employer. The latter is a virtual sentence of death to any leading research university, whether public or "private," for they are all dependent upon federal money to maintain their competitive standing and will sustain a massive loss of top faculty without it.

II. THE PROBLEM

There is little real question that if one goes back a number of years one finds a pervasive pattern of discrimination against minorities in academic employment. This applies not only to blacks and

[23] Ibid., pp. 90, 117.

[24] Francis Ward, "U.S. Agencies Clash in Rights Lawsuit," *Los Angeles Times*, April 27, 1975, Part IV, p. 1 ff.

[25] Carter vs. Gallagher, 452 F.2d 315 (1971), as reported in 452 *Federal Reporter*, 2d series, p. 331.

[26] 401 U.S. 424 (1971).

[27] Ibid., pp. 430, 431.

other minorities regarded as "disadvantaged," but also to Jews, who were effectively excluded from many leading university faculties before World War II.[1] The situation of women is somewhat more complicated and so will be deferred for the moment. However, the question that is relevant to affirmative action programs for both minorities and women is, what was the situation at the onset of such programs and how has the situation changed since?

While colleges and universities were subject to the general provisions of the Civil Rights Act of 1964 and to subsequent executive orders authorizing cancellation of federal contracts for noncompliance,[2] the *numerical proportions* approach dates from the Labor Department's 1968 regulations as applied to academic institutions by the Department of Health, Education and Welfare.[3] More detailed requirements—including the requirement of a written affirmative action program by each institution—were added in Revised Order No. 4 of 1971,[4] which contains the crucial requirement that to be "acceptable" an institution's "affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women" and must establish "goals and timetables" for increasing such "utilization" so as to remedy these "deficiencies."[5]

For purposes of establishing a chronology, 1971 may be taken as the beginning of the application of numerical goals and timetables to the academic world. The question thus becomes, what were the conditions in academic employment, pay, and promotions as of that date? For minorities in general, and blacks in particular as the largest minority, *virtually nothing* was known about academic employment conditions at that point. Assumptions and impressions abounded, but the first national statistical study of the salaries of black academics is that published in 1974 by Professor Kent G. Mommsen of the University of Utah.[6] In short affirmative action programs had been going full blast for years before anyone knew the dimensions of the problem to be solved.

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[1] Michael R. Winston, "Through the Back Door: Academic Racism and the Negro Scholar in Historical Perspective," *Daedalus*, vol. 100, no. 3 (Summer 1971), p. 695.

[2] Lester, *Antibias Regulation*, pp. 3-4.

[3] Ibid., pp. 62-63.

[4] Ibid., p. 76.

[5] Ibid.

[6] Kent G. Mommsen, "Black Doctorates in American Higher Education: A Cohort Analysis," *Journal of Social and Behavioral Science*, Spring 1974.

Professor Mommsen's data for the academic year 1969–70 show a grand total of $62 *per year* salary difference between black Ph.D.s and white Ph.D.s.[7] An earlier study by Professor David Rafky found that only *8 percent* of black academics in white institutions regarded themselves as having personally experienced discrimination in their careers.[8]

These data may seem to be sharply at variance with data showing numerical "underutilization" of minorities in the white academic world, and it is these latter data which HEW and other supporters of affirmative action rely upon. There are some rather simple and straightforward reasons why the percentage of blacks (or minorities in general) in the academic world (or at white institutions) is smaller than their percentage in the general population:

(1) Only a *very* small proportion of blacks meet the standard requirements of a Ph.D. for an academic career. Less than 1 percent of the doctorates earned in the United States are received by blacks and, despite many special minority programs and much publicity, less than 2 percent of graduate students are black.[9] Various surveys and estimates show less than 4,000 black Ph.D.s in the United States.[10] This is less than two black Ph.Ds for every American college or university—regardless of what goals and timetables may be set.

(2) Most black academics teach at black colleges and black universities,[11] and so do not show up in the predominantly white institutions where affirmative action data are collected. Nor are these black academics eager to leave and join white faculties elsewhere: the average salary increase required to

[7] Ibid., pp. 104, 107.

[8] David Rafky, "The Black Academic in the Marketplace," *Change*, vol. 3, no. 6 (October 1971), p. 65. A sharp distinction must be made between personal experience of discrimination and general opinions that discrimination exists. Both minorities and women report very little personal experience of discrimination and at the same time a widespread impression that discrimination is pervasive. See "Discrimination: A Cautionary Note," *Law and Liberty*, vol. 1, no. 3, p. 11. Similiar inconsistencies are found in opinion surveys of the general population. See Ben J. Wattenberg, *The Real America* (Garden City: Doubleday & Co., Inc., 1974), pp. 196, 198.

[9] Kent G. Mommsen, "Black Ph.Ds in the Academic Marketplace," *Journal of Higher Education*, vol. 45, no. 4 (April 1974), p. 253.

[10] Ibid., p. 256.

[11] Ibid., p. 258.

induce black academics to move was over $6,000 a year in 1970.[12] The crucial element of individual choice is left out of the affirmative action syllogism that goes from numerical "underrepresentation" to "exclusion." One study (by strong supporters of affirmative action) showed that some black academics refuse even to go for an interview at institutions that do not have a black community nearby.[13]

(3) The career characteristics of most black academics do not match the career characteristics of white (or black) faculty at the leading research universities that are the focus of affirmative action pressures. This is particularly true of the two key requirements at research universities—the Ph.D. and research publications. A survey of the faculty at black private colleges and universities found that only 25 percent had a doctorate and only 4 percent had ever published in a scholarly journal.[14] None of this is surprising, given the history of blacks in the United States. Nor should it be surprising that academics with those characteristics prefer to remain at teaching institutions rather than move to research universities.

None of this disproves the existence of discrimination in the academic world. It merely indicates that numerical underrepresentation is not automatically equivalent to discrimination. More fundamentally, it makes discrimination an empirical question—not something to be established intellectually by sheer force of preconception or to be established administratively by simply putting a never-ending burden of proof (or disproof) on institutions. For both minorities and women, a distinction must be made between saying that there is discrimination in general and establishing the particular *locus* of that discrimination. Even the most casual acquaintance with American history is sufficient to establish the existence of discrimination against blacks. The question is whether the statistical end results so emphasized by HEW are *caused* by the institutions at which the statistics were gathered.

The extent to which the patterns of minorities can be generalized to women is also ultimately an empirical question. In some

[12] Ibid., p. 262.

[13] William Moore, Jr. and Lonnie H. Wagstaff, *Black Educators in White Colleges* (San Francisco: Jossey-Bass Publishers, 1970), pp. 64-65.

[14] Daniel C. Thompson, *Private Black Colleges at the Crossroads* (Westport, Conn.: Greenwood Press, Inc., 1973), p. 155. See also Moore and Wagstaff, *Black Educators in White Colleges*, pp. 142-143.

specific and important respects, academic women are quite different from minority academics:

(1) Women have *not* risen to their present proportions among college and university faculty from lower proportions in earlier eras, despite a tendency towards such fictitious parallelism in the literature.[15] Women constituted more than 30 percent of all faculty members in 1930, and the proportion declined over the next thirty years to about 20 percent in 1960. Women reached a peak of nearly 40 percent of all academic personnel (faculty and administrators) in 1879, with fluctuations, generally downward, since then.[16] Similar declines have occurred in the representation of women in other high-level professions over a similar span, both in the United States and in Europe.[17] It is not merely that much of the assumed history of women is wrong but, more important, that the *reason* for current female disadvantages in employment, pay, and promotion are misunderstood as a result. The declining proportions of female academics occurred over a period of rising rates of marriage among academic women,[18] and a period of rising birth rates among white women in general.[19] In short, there is at least prima facie evidence that domestic responsibilities have had a major impact on the academic careers of women over time—which raises the question whether domestic responsibilities should not be investigated further as a factor in current female career differences from males, rather than going directly from numerical "underrepresentation" to "exclusion" and "discrimination."

(2) Women have administered and staffed academically top-rated colleges for more than a century,[20] in contrast to the black colleges which have never had top-rated students or

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[15] For example, the "remarkable record of women's progress through the professional ranks of a hitherto rigid academic system." *Change*, vol. 7, no. 4 (May 1975), back cover.

[16] Jessie Bernard, *Academic Women* (University Park: Pennsylvania State University Press, 1964), p. 39.

[17] John B. Parrish, "Professional Womanpower as a National Resource," *Quarterly Review of Economics and Business*, Spring 1961, pp. 58-59.

[18] Bernard, *Academic Women*, p. 206.

[19] Ibid., p. 74.

[20] Ibid., pp. 2-3, 31-32, 38n-39n.

faculty.[21] Although women's colleges such as Bryn Mawr, Smith, and Vassar have been teaching institutions rather than research universities, their students have been quite similar academically to those in the research universities and their faculty typically has had training similar to that of the faculties of research institutions. In fact, in some instances, these women's colleges have been part of research universities (Radcliffe, Barnard, Pembroke, and so on). In short, academic women have had both higher academic standing than minorities and readier access to faculty positions at research universities. Information barriers in particular have been far less important in the case of women than in the minority case, and word-of-mouth methods of communication among prestige institutions have included women for a longer time.

The point here is not to minimize women's problems but to point out that they are in some ways distinct from the problems of minorities. In other ways, of course, they are similar. For example, women academics also do not publish as much as academics in general,[22] and women academics do not have a Ph.D. as often as other academics.[23] But in the crucial area of salary, not only do women academics average less than men,[24] but also female Ph.D.s average significantly less than male Ph.D.s.[25] In short, women in academia face a different, though overlapping, set of problems from those faced by minorities in academia.

In addition to questions about the HEW "solution" for minorities, there may be additional questions about the simple extension of the minority solution to women by Executive Order No. 11375.

It must be emphasized that all the statistics cited thus far are for the academic world *prior* to affirmative action. They are intended to give a picture of the dimensions and nature of the problem that existed so as to provide a basis for judging the necessity of what was done under affirmative action programs. Now the results of those programs can also be considered.

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[21] Christopher Jencks and David Riesman, "The American Negro College," *Harvard Educational Review*, vol. 37, no. 1 (Winter 1967), pp. 3-60; Thomas Sowell, *Black Education: Myths and Tragedies* (New York: David McKay Co., 1972), pp. 255-259.

[22] Lester, *Antibias Regulation*, p. 47.

[23] Ibid., p. 42.

[24] Juanita Kreps, *Sex in the Marketplace* (Baltimore: Johns Hopkins Press, 1971), p. 52.

[25] Rita James et al., "The Woman Ph.D., A Recent Profile," *Social Problems*, vol. 15, no. 2 (Fall 196[illegible]), pp. 227-228.

III. THE RESULTS

The academic employment situation has been described in terms of rough global comparisons—black-white or male-female. Finer breakdowns are necessary in order for us to determine the effects of many variables which differ between the groups whose economic conditions are being compared. Some of these intergroup differences have already been mentioned—educational differences and differences in publications, for example—but there are others as well. If discrimination is to mean unequal treatment of equal individuals, then comparisons must be made between individuals who are similar with respect to the variables which generally determine employment, pay, and promotion. Only insofar as we succeed in specifying all these variables can we confidently refer to the remaining economic differences as "discrimination." One of the perverse aspects of this residual method of measuring discrimination is that the more determining variables that are overlooked or ignored, the more discrimination there seems to be. Since no study can specify all relevant variables, the residual pay differences between minority and female academics, on the one hand, and white males, on the other, must be understood as the upper limit of an estimate of discriminatory differences.

For both sets of comparisons, the data sources are the American Council on Education (ACE) and the National Academy of Sciences (NAS). The ACE data are based on a sample of 60,028 academicians surveyed in 1969 and a sample of 50,034 academicians surveyed in 1972. The NAS data are from (1) a National Science Foundation survey conducted in 1973, based on a stratified sample of 59,086 doctorates in the social and natural sciences and engineering [1] and (2) a longitudinal compilation by NAS of biennial surveys of the same target population by the National Science Foundation during 1960–70.

Minorities. Existing studies of black faculty members show many ways in which their job-related characteristics differ from those of faculty members in general. All these differences tend to have a negative impact on employment, pay, and promotion for academics in general:

[1] National Academy of Sciences, *Doctoral Scientists and Engineers in the United States: 1973 Profile* (Washington, D. C.: National Academy of Sciences, 1974), p. 30.

(1) A smaller proportion of black faculty than of white faculty holds a doctoral degree.[2]

(2) The *distribution* of black doctoral fields of specialization is biased towards the lower-paying fields—particularly education (roughly one-third of all black doctorates) and the social sciences (one-fourth)—with very few (about 10 percent) of the doctorates in the natural sciences.[3]

(3) The bulk of black faculty is located in the South [4]—a lower-paying region for academics in general,[5] as well as for others.

(4) Blacks complete their Ph.D.s at a later age than whites [6]—a reflection of both financial and educational disadvantages—and academics in general who complete their Ph.D.s at a later age tend to be less "productive" in research publications.

(5) Black academics, both at black colleges and at white institutions, publish much less than white academics.[7] Among the factors associated with this are much higher teaching loads and late completion of the Ph.D.

(6) Black academics are less mobile than white academics—and less mobile academics tend to earn lower salaries. Forty percent of the black professors in the Mommsen study had not moved at all, despite an average of three or four job offers per year,[8] and the median pay increase which they considered necessary to make them move was a $6,134 per year raise.[9] By contrast, among faculty in general, "the academic career is marked by high mobility," [10] and "professors expect to switch schools several times, at least, during their careers." [11]

(7) Women constitute a higher proportion (20 percent) of black doctorates than of doctorates in general (13 percent) [12]—and women earn less than men among both blacks and whites.

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[2] Lester, *Antibias Regulation*, p. 50.

[3] Mommsen, "Black Doctorates," pp. 103-104.

[4] Mommsen, "Black Ph.D.s," p. 258.

[5] David G. Brown, *The Market for College Teachers* (Chapel Hill: University of North Carolina Press, 1965), p. 83.

[6] Lester, *Antibias Regulation*, p. 49.

[7] Thompson, *Private Black Colleges at the Crossroads*, p. 155.

[8] Mommsen, "Black Ph.D.s," pp. 258-259.

[9] Ibid., p. 262.

[10] Caplow and McGee, *Academic Marketplace*, p. 41.

[11] Brown, *The Mobile Professors*, p. 26.

[12] Lester, *Antibias Regulation*, p. 48.

With all these downward biases, it is worth noting once again that the academic salaries of white doctorates averaged only $62 per year more than those of black doctorates in 1970. On a field-by-field basis, black doctorates were generally earning more than white doctorates in the same area of specialization and receiving more job offers per year [13]—all this before the affirmative action program under Revised Order No. 4 in 1971. In other words, the effect of the straightforward antidiscrimination laws of the 1960s and of the general drive toward racial integration had created a premium for qualified black academics, even before HEW's goals and timetables. Moreover, the improvements that have occurred since then need not be due to HEW pressures but may be thought of as a continuation of trends already evident before affirmative action programs began.

The data from the American Council on Education permit a standardization for degree level, degree quality, field of specialization, and number of articles published, so that the salaries of blacks, whites, and Orientals who are comparable in these respects may be compared. Table 1 omits field of specialization to give a general view of race and salary in the academic world as a whole. Degree rankings in the table are based on surveys conducted by the ACE to determine the relative rankings of Ph.D.-granting departments in twenty-nine disciplines, as ranked by members of those respective disciplines. (I have collapsed the two departmental rankings, "distinguished" and "strong," into one category in order to maintain a large sample size.) Articles published were selected as a proxy for publication in general, avoiding the problem of trying to convert books, monographs, conference papers, and articles into some equivalent.

My results for 1973 (Table 1) are generally not very different from those of Professor Mommsen for 1970: white faculty earned slightly more than black faculty in general ($16,677 versus $16,037). But when degree level and degree quality are held constant, blacks earned more than whites with doctorates of whatever ranking, while whites had an edge of less than $100 per year among academics without a doctorate. The overall salary advantage of whites over blacks—$640 per year—is a result of a different *distribution* of the races among degree levels and degree qualities, as well as a different distribution among publication categories. For example, 11 percent of the white faculty members in the ACE samples had Ph.D.s from departments ranked either "distin-

[13] Mommsen, "Black Ph.D.s," pp. 262, 259.

Table 1

MEAN ANNUAL SALARIES OF FULL-TIME FACULTY, 1972–73

Race and Articles Published	Degree Quality									
	Total		"Distinguished" and "strong" Ph.D.s		Lower-ranked Ph.D.s		Unranked Doctorates		Less than Ph.D.	
	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
WHITES	$16,677	359,828	$17,991	39,603	$17,414	51,490	$18,179	44,224	$15,981	224,510
5 or more	19,969	111,160	20,073	22,741	19,334	28,014	20,008	24,886	20,376	35,519
1-4 articles	15,702	101,132	15,486	11,700	15,252	15,820	16,153	12,457	15,767	61,156
No articles	14,780	142,869	14,013	4,653	14,507	6,948	14,977	6,348	14,814	124,920
No response	17,488	4,667	18,918	509	18,323	709	18,285	534	16,889	2,915
BLACKS	16,037	9,273	20,399	352	19,014	550	20,499	730	15,195	7,640
5 or more	22,583	1,115	21,211	181	21,877	293	28,783	249	19,797	391
1-4 articles	16,430	2,348	19,124	100	16,139	158	17,165	279	16,194	1,812
No articles	14,586	5,559	16,557	54	15,188	93	13,853	173	14,580	5,240
No response	15,403	251	31,000	18	14,000	6	20,896	29	13,244	197
ORIENTALS	15,419	4,678	18,235	740	17,035	1,248	16,724	785	12,727	1,905
5 or more	17,190	2,029	17,485	467	18,158	740	18,035	503	13,182	319
1-4 articles	15,082	948	21,084	220	14,869	224	14,539	155	11,674	348
No articles	13,200	1,651	13,091	46	15,813	276	13,899	120	12,538	1,209
No response	23,176	50	13,000	7	15,909	7	19,131	7	28,679	28

Source: American Council on Education.

guished" or "strong" by their respective professions, while only 4 percent of the black faculty came from such departments. Only 18 percent of the black academics in this sample had a doctorate at all, compared to 38 percent of the white academics. Thirty-one percent of the white faculty had published five or more articles while only 12 percent of the black faculty had done so. Blacks who had published at all had higher salaries than whites with the same number of publications.

Orientals present a somewhat different picture. Only those Orientals with "distinguished" and "strong" Ph.D.s received slightly higher salaries than their white counterparts ($18,235 versus $17,991), and even this difference was not uniform across publications categories. Among the lower-ranked doctorates, both whites and blacks earned more than Orientals, and among those with less than a doctorate, considerably more. The overall salary average of Orientals was only slightly below that of blacks, but solely because Orientals were far more concentrated in the higher degree levels and higher degree qualities. Less than half of the Oriental faculty members lacked the Ph.D. and more than 40 percent of all Oriental faculty had published five or more articles. In short, just as group differentials do not imply discrimination, so an absence of such differentials does not imply an absence of discrimination. Orientals receive less than either blacks or whites with the same qualifications, and only the fact that the Orientals have generally better qualifications than either of the other two groups conceals this.

When field-by-field comparisons are made, very similar patterns emerge. In the social sciences, blacks have higher salaries than whites or Orientals, and especially so among holders of Ph.D.s from "distinguished" and "strong" departments (Table 2). In the natural sciences (Table 3) and the humanities (Table 4), whites lead, with blacks second in the humanities and Orientals second in the natural sciences. A comparison of overall sample size from one table to another reveals very different distributions of these racial groups among academic fields: 37 percent of all black faculty members were in the social sciences, 23 percent were in the humanities, and only 16 percent were in the natural sciences. By contrast, 44 percent of the Orientals were in the natural sciences, 28 percent in the social sciences, and only 16 percent in the humanities. Whites were distributed more or less midway between blacks and Orientals: 30 percent in the social sciences, 24 percent in the humanities, and 25 percent in the

Table 2

MEAN ANNUAL SALARIES OF FULL-TIME FACULTY IN THE SOCIAL SCIENCES, 1972–73

Race and Articles Published	Degree Quality									
	Total		"Distinguished" and "strong" Ph.D.s		Lower-ranked Ph.D.s		Unranked Doctorates		Less than Ph.D.	
	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
WHITES	$16,872	108,733	$18,369	17,307	$17,192	16,680	$18,132	10,417	$16,182	64,329
5 or more	19,924	30,623	20,753	9,563	19,161	7,939	20,105	4,295	19,623	8,827
1-4 articles	16,117	34,213	15,618	5,339	15,620	5,930	17,508	3,362	16,165	19,582
No articles	15,263	42,216	14,413	2,141	14,618	2,579	15,770	2,626	15,325	34,870
No response	17,040	1,681	19,728	264	18,583	232	16,832	135	16,050	1,050
BLACKS	17,527	3,373	20,451	186	20,344	222	20,487	326	16,718	2,639
5 or more	24,088	381	21,370	109	22,676	128	31,434	97	19,240	48
1-4 articles	15,162	977	19,688	66	17,919	54	18,176	103	14,154	754
No articles	17,793	1,914	15,813	11	16,232	40	13,324	121	18,152	1,742
No response	10,540	100	—	—	—	—	30,000	5	9,509	95
ORIENTALS	15,089	1,313	18,844	203	16,449	324	13,338	70	13,581	717
5 or more	15,653	350	18,204	101	18,700	95	16,216	7	11,931	148
1-4 articles	17,042	253	22,897	69	14,836	96	12,445	22	15,649	67
No articles	14,115	710	12,317	33	16,004	134	13,351	41	13,793	502
No response	—	—	—	—	—	—	—	—	—	—

Source: American Council on Education.

Table 3

MEAN ANNUAL SALARIES OF FULL-TIME FACULTY IN THE NATURAL SCIENCES, 1972–73

Race and Articles Published	Degree Quality									
	Total		"Distinguished" and "strong" Ph.D.s		Lower-ranked Ph.D.s		Unranked Doctorates		Less than Ph.D.	
	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
WHITES	$17,225	91,411	$18,377	12,457	$18,130	25,282	$18,361	12,575	$15,972	41,098
5 or more	19,469	43,243	19,535	8,946	19,527	16,746	19,339	9,228	19,426	8,324
1-4 articles	15,735	22,667	15,442	2,863	15,259	6,446	15,342	2,739	16,203	10,619
No articles	14,618	24,571	14,268	487	15,206	1,774	16,030	427	14,551	21,882
No response	18,090	929	18,646	160	19,069	316	19,651	181	15,589	272
BLACKS	15,176	1,474	20,436	78	17,950	243	18,383	167	13,535	986
5 or more	20,640	366	20,837	51	20,445	136	24,069	57	19,180	122
1-4 articles	14,562	410	18,023	16	14,560	76	16,444	70	13,817	248
No articles	12,051	639	22,000	11	15,672	25	13,779	41	11,572	562
No response	19,365	60	—	—	14,000	6	—	—	20,000	53
ORIENTALS	16,797	2,035	18,145	490	17,709	754	17,132	441	12,520	349
5 or more	17,852	1,320	17,276	342	18,301	588	18,135	319	15,646	71
1-4 articles	16,417	415	20,672	137	15,793	101	14,568	84	12,498	93
No articles	12,466	281	15,000	4	15,344	61	13,311	31	11,333	186
No response	15,902	19	13,000	7	15,000	4	19,131	7	—	—

Source: American Council on Education.

Table 4

MEAN ANNUAL SALARIES OF FULL-TIME FACULTY .N THE HUMANITIES, 1972–73

Race and Articles Published	Degree Quality									
	Total		"Distinguished" and "strong" Ph.D.s		Lower-ranked Ph.D.s		Unranked Doctorates		Less than Ph.D.	
	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
WHITES	$15,572	85,904	$16,832	9,765	$15,659	9,084	$15,925	8,810	$15 293	58,245
5 or more	18,425	17,001	19,707	4,165	18,399	2,954	18,414	3,681	17,584	6,202
1-4 articles	15,419	23,923	15,315	3,490	14,573	3,381	14,776	3,048	15,789	14,004
No articles	14,497	43,751	13,530	2,025	13,920	2,594	13,059	1,943	14,667	37,149
No response	17,313	1,228	16,911	85	16,227	154	16,173	99	17,666	890
BLACKS	15,034	2,177	20,259	89	16,743	74	17,650	99	14,590	1,915
5 or more	16,221	135	22,296	21	21,513	19	21,507	15	12,658	80
1-4 articles	21,354	604	18,000	18	16,972	28	16,172	61	22,348	498
No articles	11,869	1,347	14,955	32	13,201	27	—	—	11,764	1,288
No response	18,175	91	31,000	18	—	—	19,000	24	13,161	49
ORIENTALS	13,005	757	16,561	47	14,860	146	16,003	90	11,509	473
5 or more	14,629	199	17,443	24	14,922	33	17,544	63	11,294	79
1-4 articles	10,317	239	16,110	14	11,557	27	11,738	15	9,579	183
No articles	13,000	306	15,000	9	15,487	82	13,000	12	11,753	203
No response	39,032	12	—	—	17,000	3	—	—	47,393	9

Source: American Council on Education.

natural sciences. Again, the net effect of these distributions is to exaggerate the overall salary differences between blacks and whites and to understate salary differences between Orientals and whites.

The National Academy of Sciences data confirm some of these patterns and reveal some new ones. NAS data for full-time doctoral scientists and engineers (academic and nonacademic) show blacks earning slightly more than whites, with Orientals last—and a spread of only $1,500 per year over all three groups (Table 5). Publications data are not available for this survey but age was tabulated as a proxy for experience. Degree quality was again available, and again Orientals with given credentials quality had lower salaries than either blacks or whites in the same categories. In all three groups, salary rises with age, but the *relative* positions of blacks and whites are *reversed* in the oldest and youngest age brackets. Young black doctorates—under thirty-five—earn more than their white counterparts in either degree quality category, but older blacks—over fifty—earn *less* than their white counterparts in either degree quality category. These results hold up when the sample is broken down into natural sciences and social sciences. It is also consistent with a larger study by Professor Finis Welch of UCLA which showed a much higher rate of return to education for younger blacks than for older blacks—both absolutely and relative to their white counterparts.[14] Two important factors are involved here: (1) the older blacks were educated in an era when their public school education was inferior not only by various quality measures but also in sheer quantity (black schools had fewer days than white schools in their respective school years),[15] [illegible]is poorer preparation could not help affecting later capability, and (2) the level of job discrimination was also greater when the older blacks began their careers, and this too could not help affecting the later course of those careers, making it difficult for these blacks to exploit new opportunities as readily as the younger blacks just beginning their careers. A further implication of all this is that global comparisons of blacks and whites capture many existing effects of past discrimination, while an age-cohort breakdown of the same data permits a better look at the current results of current policies and the trends to expect in the future.

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[14] Finis Welch, "Black-White Differences in Returns to Schooling," *American Economic Review*, vol. 63, no. 5 (December 1973), pp. 893-907.

[15] Ibid., p. 894.

Table 5

MEDIAN ANNUAL SALARIES OF FULL-TIME SCIENTISTS AND ENGINEERS, BY RACIAL GROUP AND DEGREE QUALITY, 1973

Race and Age Group	Degree Quality					
	Total		"Distinguished" and "strong" Ph.D.s		Other	
	Salary	Sample size	Salary	Sample size	Salary	Sample size
WHITES	$20,988	28,048	$22,146	8,589	$20,275	19,459
Under 35 years	17,228	6,615	17,879	1,827	16,933	4,788
35–49	21,757	14,024	22,480	4,167	21,342	9,857
50+	25,357	7,409	26,333	2,595	24,704	4,814
BLACKS	21,445	261	23,268	54	20,597	207
Under 35 years	18,660	44	20,476	4	18,396	40
35–49	21,256	149	22,998	26	20,668	123
50+	23,460	68	24,307	24	22,770	44
ORIENTALS	20,005	1,087	20,222	330	19,862	757
Under 35 years	16,230	210	18,162	60	15,364	150
35–49	20,613	676	20,378	206	20,761	470
50+	23,261	201	22,429	64	23,660	137

Source: 1973 Survey of Doctoral Scientists and Engineers, National Research Council, National Academy of Sciences.

In summary, the salary differentials among these three racial or ethnic groups are small, both in the academic world and among holders of the doctorate in the social or natural sciences (academic and nonacademic). With such variables as credentials, publications, and experience held constant, blacks equalled or surpassed whites in 1973—but they also equalled or surpassed whites with fields held constant in 1970. Without these variables held constant, the overall black-white differential was $62 per year in 1970 and $640 in 1973. Given that these are different samples, it is perhaps best to say that there were negligible overall differences among black and white academics in both years—that affirmative action has achieved nothing discernible in this regard. But it an arithmetic conclusion is insisted upon, then it must be said that there has been a negative effect of affirmative action as far as black-white differences are concerned.

Women. The classic study *Academic Women* by Jessie Bernard described women as "overrepresented in college teaching." This was based on the fact that women were only 10 percent of the Ph.D.s but constituted more than 20 percent of college and university faculties.[16] This was written in 1964—before affirmative action. Unlike HEW's crude "underutilization" measures, this study (by an academic woman) considered not only the number of women with the usual degree requirements but also "the large number of educated women—30.6 percent of those with five years or more of college—who are not in the labor force." [17] Withdrawal from the labor force is only one of many career characteristics which have a negative effect on the employment, pay, and promotion of academic women. Some others are:

(1) Female academics hold a doctorate less frequently than male academics—20 percent as against 40 percent in 1972–73.[18]

(2) Female academics publish only about half as many articles and books per person as do male academics,[19] and females

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[16] Bernard, *Academic Women*, p. 52.

[17] Lester, *Antibias Regulation*, p. 42.

[18] Alan E. Bayer, *Teaching Faculty in Academe: 1972-73* (Washington, D. C.: American Council on Education, 1973), p. 15.

[19] Frank Clemente, "Early Career Determinants of Research Productivity," *American Journal of Sociology*, vol. 79, no. 2 (September 1973), p. 414; Lester,

are especially underrepresented among frequent publishers.[20]

(3) Academic women are educated disproportionately in lower-paying fields of specialization, such as the humanities,[21] and they prefer teaching over research more so than academic men, not only in attitude surveys,[22] but also in their allocation of time [23] and in the kinds of institutions at which they work [24]—which are the low-paying teaching institutions more so than the top research universities with high salaries.

(4) Academic women more frequently subordinate their careers to their spouses' careers, or to the general well-being of their families, than do academic men. This takes many forms, including quitting jobs they like because their husbands take jobs elsewhere,[25] interrupting their careers for domestic reasons,[26] withdrawing from the labor force (25 percent of women Ph.D.s),[27] doing a disproportionate share of household and social chores compared to their husbands in the same occupations,[28] and a general attitude reported by women themselves of putting their homes and families ahead of their careers much more often than do male academics.[29] All this goes to the heart of the question of the actual *source* of sex differentiation—whether it is the home or the work place, and therefore whether "equal treatment" as required by the Constitution and envisioned in the Civil Rights Act would eliminate or ensure unequal results by sex.

Antibias Regulation, p. 47. See also Brown, *Mobile Professors*, p. 78, and Bernard, *Academic Women*, p. 148.

[20] Brown, *Mobile Professors*, pp. 76-78. See also Lester, *Antibias Regulation*, p. 42.

[21] Bernard, *Academic Women*, p. 180; Brown, *Mobile Professors*, p. 81; Helen S. Astin and Alan E. Bayer, "Sex Discrimination in Academe," *Educational Record*, Spring 1972, p. 103; Helen S. Astin, *The Woman Doctorate in America* (New York: Russell Sage Foundation, 1970), pp. 20-21.

[22] Bernard, *Academic Women*, pp. 151-152.

[23] Astin, *The Woman Doctorate*, p. 73; Lester, *Antibias Regulation*, p. 42.

[24] Brown, *Mobile Professors*, pp. 79-80.

[25] Barbara B. Reagan, "Two Supply Curves for Economists? Implications of Mobility and Career Attachment of Women," *American Economic Review*, vol. 65, no. 2 (May 1975), pp. 102, 103. See also Astin, *The Woman Doctorate*, p. 102.

[26] Reagan, "Two Supply Curves," p. 104.

[27] Brown, *Mobile Professors*, p. 78.

[28] Bernard, *Academic Women*, p. 221; Lester, *Antibias Regulation*, p. 39.

[29] Reagan, "Two Supply Curves," p. 103. See also Bernard, *Academic Women*, pp. 151-152, 181-182; Astin, *The Woman Doctorate*, pp. 91-92.

None of these factors disproves the existence of sex discrimination; but they do mean that attempts to measure sex discrimination must be unusually careful in specifying the relevant variables which must be equal before remaining inequalities can be considered "discrimination." *Unfortunately, such care is not evident in HEW pronouncements* or in much of the literature supporting affirmative action. Even the comprehensive studies by Helen S. Astin and Alan E. Bayer make the fatal mistake of holding marital status constant in comparing male-female career differences.[30] But marriage has *opposite* effects on the careers of male and female academics, advancing the man professionally and retarding the woman's progress. Not only do the men and women themselves say so,[31] but the Astin-Bayer data (and other data) also show it.[32] Therefore to treat as "discrimination" all residual differences for men and women of the "same" characteristics—including marriage—is completely invalid and misleading.

Marriage is a dominant—and negative—influence on academic women's careers. A study of academics who had received their Ph.D.s many years earlier showed that 69 percent of the total—mostly men—had achieved the rank of full professor, as had 76 percent of the single women but only 56 percent of the married women.[33] In short, many of the statistical differences between the broad categories "men" and "women" are to a large extent simply differences between married women and all other persons. It is an open question how much of the residual disadvantages of single academic women is based upon employer fears of their becoming married academic women and acquiring the problems of that status. One indication of the difficulty of successfully combining academic careers with the demands of being a wife and mother is that academic women are married much less frequently than either academic men or women Ph.D.s

[30] "The regression weights of the predictor variables that emerged in the analysis of the men's sample were applied to the data for the women's sample to assess the predicted outcome when the criteria for men were used. . . . To award women the same salary as men of similar rank, background, achievements and work settings . . . would require a compensatory average *raise* of more than $1,000. . . ." Astin and Bayer, "Sex Discrimination in Academe," p. 115.

[31] Bernard, *Academic Women*, p. 217.

[32] Astin and Bayer, "Sex Discrimination in Academe," p. 111; Lester, *Antibias Regulation*, pp. 36-37.

[33] Helen S. Astin, "Career Profiles of Women Doctorates," *Academic Women on the Move*, ed. Alice S. Rossi and Ann Calderwood (New York: Russell Sage Foundation, 1973), p. 153.

in nonacademic fields,[34] are divorced more frequently,[35] and have fewer children than other female Ph.D.s.[36]

Much of the literature on women in the labor market denies that "all" women, "most" women, or the "typical" woman represent special problems of attrition, absenteeism and other characteristics reflecting the special demands of home on women. For example, the "typical woman economist" has not given up her job to move because of her husband's move, but 30 percent of the women economists do, while only 5 percent of male economists accommodate their wives in this way.[37] Similarly, while *most* female Ph.D.s in economics have not interrupted their careers, 24 percent had interrupted their careers prior to receiving the degree (compared to 2 percent of the men) and "another 20 percent" afterwards (compared to 1 percent of the men).[38] These are clearly substantial percentages of women and several-fold differentials between men and women.

The literature on women workers in general makes much of the fact that *most* women "work to support themselves or others," not just for incidental money.[39] However, this does not alter the facts (1) that women's labor force participation rates are substantially lower than men's [40] and (2) that married women's labor force participation declines as their husbands' incomes rise.[41] This is also true of academic women.[42]

In considering global male-female differences in career results, the question is not whether "most" women have certain negative career characteristics but whether a significant percentage do and whether that percentage is substantially different from that of men. Moreover, it is not merely the individual negative characteristics that matter but their cumulative effects on male-female differentials in employment, pay, and promotion. Nor can these differences in career characteristics be dismissed as

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[34] Lester, *Antibias Regulation*, p. 41.

[35] Bernard, *Academic Women*, pp. 113, 206.

[36] Ibid., p. 216.

[37] Reagan, "Two Supply Curves," pp. 101-103.

[38] Ibid., p. 104.

[39] U.S. Department of Labor, *Underutilization of Women Workers* (Washington, D. C.: U.S. Government Printing Office, n.d.), p. 1.

[40] William G. Bowen and T. Aldrich Finegan, *The Economics of Labor Force Participation* (Princeton: Princeton University Press, 1969), pp. 41, 101, 243.

[41] Ibid., p. 132.

[42] Astin, *The Woman Doctorate*, p. 60.

subjective employer perceptions or aversions.[43] They represent in many cases *choices* made outside the work place which negatively affect women's career prospects. As one woman researcher in this area has observed: "One way of insuring that the academic husband's status will be higher than his academic wife's is to allow the husband's job opportunities to determine where the family lives."[44] But regardless of the wisdom or justice of such a situation, *it is not employer discrimination*, even though it may lead to statistical male-female differences between persons of equal ability.

One of the fertile sources of confusion in this area is the thoughtless extension of the "minority" paradigm to women. It makes sense to compare blacks and whites of the same educational levels because education has the same positive effect on black incomes and white incomes, though not necessarily to the same extent. It does not make sense to compare men and women of the same marital status because marital status has opposite effects on the careers of men and women. Minorities have serious problems of cultural disadvantages, so that faculty members from such groups tend to have lower socioeconomic status and lower mental test scores than their white counterparts,[45] and black colleges and universities have never been comparable to the best white colleges and universities,[46] whereas female academics come from *higher* socioeconomic levels than male academics,[47] female Ph.D.s have higher IQs than male Ph.D.s in field after field,[48] and the best women's colleges have had status and student SAT levels comparable to those of the best male or coeducational institutions. Women have been part of the cultural, informational, and social network for generations, while blacks and even Jews have been largely excluded until the past generation. While minorities have been slowly rising in professional, technical, and other high-level

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[43] Jerolyn R. Lyle and Jane L. Ross, *Women in Industry* (Lexington, Mass.: D. C. Heath and Co., 1973), p. 13; Reagan, "Two Supply Curves," p. 104.

[44] Quoted in Reagan, "Two Supply Curves," p. 102.

[45] Horace Mann Bond, *A Study of the Factors Involved in the Identification and Encouragement of Unusual Academic Talent among Underprivileged Populations* (U.S. Department of Health, Education, and Welfare, Project no. 5-0859, Contract no. SAE 8028, January 1967), p. 117.

[46] Sowell, *Black Education*, pp. 255-259; Jencks and Riesman, "The American Negro College."

[47] Bernard, *Academic Women*, pp. xx, 77-78; Alan E. Bayer, *College and University Faculty: A Statistical Description* (Washington, D. C.: American Council on Education, June 1970), p. 12; Astin, *The Woman Doctorate*, pp. 23, 25.

[48] Bernard, *Academic Women*, p. 84.

positions over the past 100 years, women have declined in many such areas over the same period, even in colleges institutionally operated by women,[49] so that employer discrimination can hardly explain either the trend or the current level of "utilization" of women. Marriage and childbearing trends over time are highly correlated with trends of women's participation in high-level occupations, as well as being correlated with intra-group differences among women at a given time. In short, women are not another "minority," either statistically or culturally.

When male-female comparisons are broken down by marital status and other variables reflecting women's domestic responsibilities, some remarkable results appear. Although women in the economy as a whole earn less than half as much annually as men,[50] with this ratio *declining* from 1949 to 1969,[51] the sex differentials narrow to the vanishing point—and in some cases are even reversed—when successive corrections are made for marital status, full-time as against part-time employment, and continuous years of work. For example, in 1971 women's median annual earnings were only 40 percent of those of men, but when the comparison was restricted to year-around, full-time workers, the figure rose to 60 percent, and when the comparison was between single women and single men in the same age brackets (thirty to forty-four) with continuous work experience, "single women who had worked every year since leaving school earned slightly more than single men."[52] These are government data for the economy as a whole.

The severe negative effect of marriage on the careers of women is not a peculiarity of the academic world. Other nationwide data on sex differences show single women's incomes ranging from 93 percent of single men's income at ages twenty-five to thirty-four to 106 percent in ages fifty-five to sixty-four[53]—that is, after the danger of marriage and children are substantially past. For women already married, the percentages are both lower and decline with age—ranging from 55 percent of married men's

[49] Ibid., pp. 39-44.

[50] James Gwartney and Richard Stroup, "Measurement of Employment Discrimination According to Sex," *Southern Economic Journal*, vol. 39, no. 4 (April 1973), pp. 575-576; and "The Economic Role of Women," in the *Economic Report of the President*, 1973 (Washington, D. C.: U.S. Government Printing Office, 1973), p. 103.

[51] Gwartney and Stroup, "Employment Discrimination," p. 583.

[52] "The Economic Role of Women," p. 105.

[53] Gwartney and Stroup, "Employment Discrimination," p. 582.

incomes at ages twenty-five to thirty-seven to only 34 percent at ages fifty-five to sixty-four.[54] Apparently early damage to a woman's career is not completely recouped—at least not relative to men who have been moving up occupationally as they age while their wives' careers were interrupted by domestic responsibilities. In the early years of career development, single women's labor force participation rates are rising sharply, while those of married women are declining sharply.[55] Again, the data suggest that what are called "sex differences" are largely differences between married women and all others, and that the origin of these differences is in the division of responsibilities in the family rather than employer discrimination in the work place. The increasing proportion of married women in the work force over time[56] has been a major factor in the decline of the earnings of women relative to men.

Academic women show similar patterns. For example, the institutional employment of married women is "determined to a large extent" by the location of their husbands' jobs,[57] and this contributes to a lower institutional level for academic females than for male Ph.D.s. Academic women apparently find it harder than other women of similar education to combine marriage and a career. One study of "biological scientists receiving their degrees during the same time period" found only 32 percent of such academic women married compared to 50 percent of their non-academic counterparts, even though initially virtually identical percentages were married before receiving their Ph.D.[58] A more general survey of women holding doctorates found only 45 percent to be married and living with their husbands.[59] Although there were more married than single women among women doctorates in general,[60] in the academic world there were more single than married female doctorates.[61] Moreover, female academics had divorce rates several times higher than male academics.[62] Another study of college teachers found 83 percent of the men but only

[54] Ibid.

[55] Kreps, *Sex in the Marketplace*, p. 32.

[56] Ibid., pp. 4, 19.

[57] Bernard, *Academic Women*, p. 88.

[58] Ibid., p. 113.

[59] Astin, *The Woman Doctorate*, p. 27.

[60] Ibid.

[61] Ibid., p. 71.

[62] Bernard, *Academic Women*, p. 216.

46 percent of the women to be married.[63] Women in other high-level, high-pressure jobs requiring continuous full-time work show similarly low proportions married.[64]

Childbearing is also negatively associated with career prospects. Among Radcliffe Ph.D.s, those working full time had the fewest children, those working part time next, those working intermittently next, and those not working at all had the most children.[65] Various surveys show that "female Ph.D.s who are married are twice as likely to be childless as women in the same age group in the general population" and even when they do have children, to have fewer of them.[66] The husband's prospects also have a negative effect on women doctorates' careers: a woman married to a "highly educated man with a substantial income was less likely to work" or, if she did, was more likely to take a part-time job.[67] This parallels a negative correlation between married women's labor force participation and their husbands' incomes in the general economy.[68]

In research output, "the woman doctorate who is married and has children was less likely than the single woman doctorate or a childless married woman doctorate to have many scientific and scholarly articles to her credit."[69] It is not surprising that the married woman doctorate "tended to make a lower salary than the single woman, even if she was working full time."[70] Unfortunately, studies of academic women have not simultaneously controlled for marital status, full-time *continuous* employment, publications, and degree level and quality.

The National Academy of Sciences data permit comparisons of the salaries of male and female doctorates who worked full time both in 1960 and in 1973 and who responded to all the biennial surveys of the National Science Foundation from 1960 through 1973 (see Table 6). This gives an approximation of full-time continuous employment, but does not show whether the respondent was employed full time in each of the years during which a survey was made or whether the respondent worked at

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[63] Ibid., p. 313.

[64] Ibid., pp. 313-314.

[65] Ibid., p. 241.

[66] Lester, *Antibias Regulation*, p. 38.

[67] Astin, *The Woman Doctorate*, p. 60.

[68] Bowen and Finegan, *Labor Force Participation*, p. 132.

[69] Astin, *The Woman Doctorate*, p. 82.

[70] Ibid., p. 90.

Table 6

MALE-FEMALE SALARY RELATIONSHIPS (1970 AND 1973) AMONG FULL-TIME DOCTORATES INCLUDED IN ALL 1960–73 NSF SURVEYS

Fields	Average Annual Salary	
	1970	1973
NATURAL SCIENCES		
Men	$20,646	$24,854
Women	$17,061	$20,718
Ratio of women/men	.83	.83
SOCIAL SCIENCES		
Men	$21,442	$26,537
Women	$17,171	$21,027
Ratio of women/men	.80	.80
TOTAL[a]		
Men	$20,508	$24,851
Women	$17,073	$20,910
Ratio of women/men	.83	.84

[a] Includes miscellaneous fields as well as the natural sciences and the social sciences.

Source: National Academy of Sciences.

all in the non-survey years. These data show female salaries at 83 percent of male salaries in 1970 (before affirmative action) and 84 percent in 1973 (after affirmative action)—a smaller proportion than in other data which controlled for other variables such as publications and degree quality. It also indicates no discernible effect of affirmative action programs.

A 1968 study of full-time academic doctorates found women's salaries ranging from 89 percent to 99 percent of men's salaries in the same field, with similar length of employment, and in broadly similar institutions (colleges versus universities).[71] These higher percentages—as compared with the results in Table 6—suggest that the distribution of women by institutional type and ranking and by years of employment explains a significant part of the male-female salary differences among academics. Moreover, since women academics with Ph.D.s in this 1968 study earned 92.2 per-

[71] Bayer and Astin, "Sex Differences in Academic Rank and Salary among Science Doctorates in Teaching," *Journal of Human Resources*, vol. 3, no. 2 (Spring 1968), p. 196. "Science" in the title includes the social sciences.

cent of the income of men academics with Ph.D.s (even without controlling for publications), these figures indicate how small the sex differential was for even roughly similar individuals before affirmative action.

Even more revealing patterns appear in our tabulations of ACE data by marital status (Table 7). In 1969, academic women who never married earned slightly more than academic men who never married. This was true at top-rated institutions and at other institutions, for academics with publications and for academics without publications. The male salary advantage exists solely among married academics and among those who used to be married ("other" includes widowed, divorced, et cetera). The male advantage is greatest among those married and with dependent children. Being married with children is obviously the greatest inhibitor of a woman's career prospects and the greatest incentive to a man's. The salaries of women who never married were 104 percent of the salaries of their male counterparts at the top-rated institutions and 101 percent at other institutions. For women who were married but had no dependent children, the percentages fell to 88 and 84 percent, respectively. For married women with dependent children, the percentages fell still further, to 69 and 70 percent. For women and men without publications and in nonranked—essentially nonresearch—institutions, the "never married" women earned 145 percent of the "never married" men's incomes—confirming a general impression that women prefer teaching institutions, and therefore a higher proportion of top-quality women than of top-quality men end up at such places by choice. It also suggests that employers are not unwilling to recognize such quality differentials with salary differentials in favor of women.

In the literature on sex differentials and in the pronouncements of governmental agencies administering affirmative action programs, sinister and even conspiratorial theories have been advanced to explain very ordinary and readily understandable social phenomena: (1) academic individuals who are neither aiding nor aided by a spouse make very similar incomes, whether they are male or female, (2) academic individuals who are aided by a spouse (married males) make more than unaided individuals, and (3) academic individuals who aid a spouse (married females) make less for themselves than do the other categories of people. The social mores which lead women to sacrifice their careers for their husbands' careers may be questioned (as should the high personal

Table 7

ACADEMIC-YEAR SALARIES BY SEX AND MARITAL STATUS, 1968–69

Sex and Marital Status	Total				With Publications				Without Publications			
	Top institutions		Other institutions		Top institutions		Other institutions		Top institutions		Other institutions	
	Salary	Number	Salary	Number	Salary	Number	Salary	Number	Salary	Number	Salary	Number
MEN												
Total	$13,704	26,493	$13,245	307,323	$13,697	26,033	$13,230	301,251	$14,075	459	$13,965	6,071
Presently married	13,562	23,623	13,175	280,637	13,549	23,209	13,159	275,248	14,323	413	13,969	5,389
With dependent children	14,180	15,996	13,636	200,570	14,179	15,728	13,623	196,640	14,242	267	14,273	3,929
Without dependent children	12,266	7,627	12,018	80,067	12,223	7,481	11,997	78,607	14,472	145	13,150	1,459
Never married	11,070	142	10,525	3,737	11,070	142	10,569	3,629	0	0	9,027	107
Other	15,065	2,727	14,548	22,947	15,120	2,681	14,540	22,373	11,838	45	14,856	573
WOMEN												
Total	11,030	4,166	10,359	75,044	11,003	4,062	10,345	73,155	12,094	103	10,889	1,888
Presently married	10,264	2,839	10,021	60,484	10,213	2,753	10,012	59,016	11,875	86	10,403	1,467
With dependent children	9,727	1,255	9,645	17,246	9,626	1,207	9,640	16,734	12,255	48	9,809	511
Without dependent children	10,690	1,583	10,171	43,238	10,672	1,545	10,159	42,282	11,394	37	10,721	956
Never married	11,523	404	10,566	5,174	11,363	399	10,455	4,954	22,499	5	13,075	219
Other	13,176	921	12,419	9,384	13,236	909	12,427	9,184	8,633	11	12,045	200

Note: Data cover all races and all disciplines.

Source: American Council on Education.

price exacted from academic career women, as reflected in their lower marriage and higher divorce rates). But social mores are not the same as employer discrimination. The fact that single academic women earn slightly higher salaries than single academic men suggests that employer discrimination by sex is not responsible for male-female income differences among academics. Moreover, even as regards social mores, it must be noted that academic women report themselves satisfied with their lives a higher percentage of the time than do academic men [72]—a phenomenon which some explain by saying that women do not put all their emotional eggs in one basket as often as men,[73] and which others explain by treating high research creativity as a somewhat pathological and compensatory activity of the personally unfulfilled.[74] The point here is that the evidence is not all one way, nor the logic overwhelming, even as regards apparently inequitable social mores. On the basic policy issue of employer discrimination, such evidence as there is lends no support to this as an explanation of male-female career differences, and the slight but persistent advantage of single females over single males undermines the pervasive preconception that employers favor men when other things are equal.

IV. THE IMPLICATIONS

The academic profession has been chosen as an area in which to study the necessity and effectiveness of affirmative action programs, primarily because it is an area in which crucial career characteristics can be quantified and have been researched extensively over the years. The questions are: (1) What are the implications of affirmative action in the academic world? (2) To what extent is the academic world unique—or, to what extent are these research findings applicable to the economy at large? (3) Both for the academic world and for the economy at large, what alternative policies offer a better prospect of achieving the general goal of equal opportunity which provides much of the driving force behind the particular policies and practices summarized as affirmative action?

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[72] Bernard, *Academic Women*, p. 182.

[73] Ibid., p. 152.

[74] Ibid., p. 156.

Academia. The central assumption of affirmative action programs is that "underrepresentation" of minorities or women represents employer "exclusion" rather than different career characteristics of groups or different choices by the individuals themselves. In the academic world, major intergroup differences have been found in degree levels, publications, and fields of specialization—all these differences being to the disadvantage of minorities and women. For minorities, holding such variables constant reduces, eliminates, or even reverses salary differentials as compared to white academics. Even without holding such variables constant, the pay differentials between minorities and other academics were less than $100 per year *before* affirmative action and less than $1,000 afterwards—indicating that both the necessity for such programs and the effectiveness of them are open to serious question. For women, holding the same variables constant does not eliminate salary differentials, but holding full-time employment constant comes close to doing so, and for those women without marital responsibilities, sex differentials disappear. Together with much other data, this suggests that marital status in general and an unequal division of domestic responsibility in particular explain both differential trends over time and the differences at a given time between male and female academics.

The term "career characteristics" has been used here, not simply to avoid the emotionally loaded word "qualified," but because it seems more accurate and germane. Given the enormous range of American colleges and universities, virtually anyone with graduate training is "qualified" to teach somewhere, while only a small fraction of the Ph.D.s are "qualified" to teach at the very top institutions. The question of qualifications therefore amounts to a question of whether a particular individual matches a particular institution, rather than whether he or she belongs in the profession. An institution is not excluding a "qualified" applicant because it hires someone else whose career characteristics fit its institutional needs, even though those not hired have career characteristics which make them valuable to other kinds of institutions. Research universities—a major focus of affirmative action programs—offer a specialized environment which many academics do not want, as well as one for which many do not have the appropriate set of career characteristics. It is as unnecessary to denigrate either individuals or groups as it is to denounce as "irrelevant" the characteristics which research universities seek for their special purposes.

The crucial element of individual *choice* is routinely ignored in analyses and charges growing out of statistical distributions of people. Women *choose* to emphasize teaching over research, and this has implications for their degree levels (a Ph.D. is not as essential), the kind of institutions they prefer, and the life style it permits—including part-time and intermittent careers that mesh with domestic life. Black faculty *prefer* being where they are to such an extent that it would take more than a $6,000 raise to move them, according to a survey of several hundred black academics.

One of the peculiarities of the academic market is its fragmentation or balkanization.[1] A particular department typically hires people trained at a relatively small number of other departments. This is due to the high cost of specific knowledge about specific individuals as they emerge from graduate school. At that point, the individual usually has no publications or teaching experience, and the only indications of his intellectual potential are the estimates of professors who taught him or directed his thesis research—and the value of those estimates depends crucially upon the reliability of those professors, which in turn means it depends on how well members of the employing department know members of the department where the applicant was trained. The top departments in many fields typically hire from other top departments in the same fields. This has led to charges of an "old boy network" among the top departments which excludes outsiders in general and minorities and women in particular. But despite loose talk about "recruitment procedures that tend exclusively to reach white males,"[2] the fact is that (1) most black Ph.D.s were trained in a very few *highly rated*, predominantly white departments[3] and (2) a slightly higher proportion of female doctorates than of male doctorates received their Ph.D.s from the top twelve universities.[4] In short, whatever the merits or demerits of the "old boy network," as high a percentage of minority and female Ph.D.s as of white male Ph.D.s are inside its orbit.

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[1] Brown, *Mobile Professors*, Chapter 4.

[2] J. Stanley Pottinger, "The Drive Toward Equality," *Change*, vol. 4, no. 8 (October 1972), p. 24.

[3] At the Ph.D. level blacks tend to receive their degrees from large, prestigious, predominantly white institutions of higher learning outside the South." Mommsen, "Black Ph.D.s," p. 256. Fifty percent of all black Ph.D.s come from just ten institutions (p. 257). By comparison, for academics in general, "the ten top-producing universities granted 35.8 percent of the doctorates. . . ." Brown, *Mobile Professors*, p. 45.

[4] Bernard, *Academic Women*, p. 87.

Affirmative action practices ignore both choice and career characteristics by the simple process of putting the burden of proof on academic institutions to explain why their percentages of minority and female faculty do not match the kinds of proportions preconceived by governmental authorities. Career characteristics are accepted as mitigating factors only when job criteria have been "validated"—which is virtually impossible. The statistical "validation" process, as developed for written tests in education, involves prediction for a very short span of time on a very limited number of variables, such as grades and graduation. To extend the "validation" concept to the whole hiring process for complex professions with many dimensions is to demand mathematical certainty in areas where good judgment is the most that can be expected. In such circumstances, where "validation" amounts to convincing government officials, it means convincing people whose own career variables—appropriations, staff, and power—depend upon not believing those attempting to convince them. General findings of reasonable hiring decisions would be a general sentence of death for the agency itself. More basically, this situation replaces the principle of prescriptive laws with ex post administrative determination of what should have happened, combined with never-ending burdens of proof as to why it did not.

A mitigating factor (in the opinion of some) is that the ultimate sanction of contract cancellation is not actually invoked. But this means that the real penalty is having to repeatedly devote substantial institutional resources to producing the pounds of paper which constitute an affirmative action report—and this penalty falls equally on the just and on the unjust. Even aside from the disturbing moral implications of this, it means that the *effectiveness* of the penalty is reduced when a discriminating employer has little to gain by becoming a non-discriminating employer, in a society where the career characteristics of the target population ensure that he will never be able to fill affirmative action quotas anyway. There is truth in the bitter comments from both sides of the affirmative action controversy that (1) colleges and universities are under unremitting and unreasonable pressures and that (2) virtually nothing is actually being accomplished for minorities and women. An even weightier consideration is that the *appearance* of massive benefits being conferred on minorities and women undermines the very real achievements of minorities and women themselves, often made at

great personal sacrifice—achievements whose general recognition would be a very healthy influence on society at large.

There are a number of ways in which affirmative action programs hurt the academic world without benefiting minorities or women:

(1) The sheer volume of resources required to gather and process data, formulate policies, make huge reports (typically weighing several pounds), and conduct interminable communications with a variety of federal officials is a large, direct, and unavoidable cost to the institution—whether or not it is guilty of anything, and whether or not any legal sanction is ever imposed.

(2) The whole academic hiring process is changed by outside pressures, so as to generate much more paperwork as evidence of "good faith" hiring efforts and in general to become slower, more laborious, more costly, and less certain—even where the individual eventually hired is a white male, as is in fact typically the case. It is *not* that it costs more to hire minorities or women, but that it becomes more costly to hire *anyone*.

(3) Faculty decision making on hiring, pay, and promotion is increasingly being superseded by administrative determination, in response to affirmative action pressures on academic institutions. The historic informal balance of power is being shifted away from those with specific expertise in their fields to those who feel outside pressures to generate either acceptable numbers or acceptable procedures, excuses, or promises. The bitterness and demoralization generated by this undermining of traditional faculty autonomy occurs whether or not any minority or female faculty members are eventually hired.

(4) The "up-or-out" promotion and tenure policies of top research universities have meant in the past essentially a "no-fault" termination of untenured faculty members, who typically go on to have successful careers at other institutions. Now the threat of "discrimination" charges based on nothing more than statistics forces an accumulation of evidence as potential "justification"—with both financial and morale costs to individuals and institutions.

In short, many—if not most—of the costs of affirmative action imposed by the government on academic institutions do not rep-

resent gains by minorities or women, but simply burdens and losses sustained by the whole academic community.

What is most lacking in the arguments for affirmative action programs is a detailed specification of who is expected to benefit, in what manner, with what likelihood, and at what risk of negative effects on net balance. The potential beneficiaries in the academic world might be existing minority or female academics, and the specific benefits might be financial or psychic, through working at more prestigious institutions. Of course, the possibility of financial or psychic loss should also be considered, but seldom is. Perhaps *future* minority or female academics might be expected to receive financial or psychic benefits—or to lose in either or both respects. Or perhaps minorities and females as groups are expected to benefit financially or psychically from any increase in the numbers or standings of the members of these groups or in the academic world—and again, this prospect of the reverse has to be considered. Some have argued that minorities or female students benefit from seeing "role models" or that white male students benefit equally from seeing minorities or women successful in spite of stereotypes. Let us briefly examine each of these possibilities, its likelihood, and the likelihood of the opposite.

First, minority or female faculty as potential beneficiaries. Our data show no reason to single out these well-paid professionals as a "disadvantaged" group, either absolutely or relative to white males with the same career characteristics. But assume that we wish to do so anyway. The data show no evidence of any significant group-wide advance in pay after affirmative action. What of prestige? Most black faculty apparently think so little of it as to be unwilling to leave their present jobs—overwhelmingly at black institutions—without very large financial compensation for the move. Female academics have a long history of giving a low rating to academic prestige as a source of career satisfaction.[5] In short, the benefits expected to be conferred by affirmative action have not in fact been conferred, nor is there much evidence that they were much desired by the supposed beneficiaries. Perhaps future minority and female academics will be different—but they will enter an academic world where attitudes toward them will have been shaped by present policies on minorities and women, which means facing the resentment, doubts, and presumptions of incompetence spawned by the bitter controversy surrounding this basically ineffective program.

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[5] Brown, *Mobile Professors*, pp. 79-80.

Second, as for general image upgrading for the benefit of the group as a whole or of society, this can hardly be expected in such an atmosphere. Indeed, the emphasis on the government's conferring a benefit on minorities and women amounts almost to a moratorium on recognition of *achievements* by such groups, for their achievements tend to be subsumed under the notion of conferred benefits. Certainly there is no clear-cut way to separate the two in practice. How can this upgrade images or improve intergroup relations? No small part of the very real benefits of working in a top research university consists of the *voluntary* cooperation and mutual interest of academic colleagues. Already there have been bitter complaints by minority faculty concerning their reception by colleagues,[6] indicating how little can be expected from merely shoe-horning someone into a given setting under government auspices.

What is particularly ominous is that the affirmative action pressures are occurring during a period of severe academic retrenchment under financial stress. Many thousands of well-qualified people of many descriptions were bound to have their legitimate career expectations bitterly disappointed, whether there was affirmative action or not. Affirmative action, however unsuccessful at really improving the positions of minorities and women, gives these disappointed academics and would-be academics a convenient focus or scapegoat for their frustrations.

The Economy. To what extent can the patterns found in the academic profession be generalized to the larger society? That question can be answered only after applying a similar approach to the economy as a whole—that is, going beyond the global black-white or male-female comparisons to comparisons of segments carefully matched for the relevant variables. For women, such matching eliminates sex differentials among continuously employed single individuals.[7] Among blacks, college-educated men had achieved starting salary equality by 1970,[8] with "virtually all of the improvement in relative income" occurring "after passage of the

[6] Moore and Wagstaff, *Black Educators in White Colleges*, pp. 28, 131, 198-199; Richard L. Garcia, "Affirmative Action Hiring," *Journal of Higher Education*, vol. 14, no. 4 (April 1974), pp. 268-272.

[7] "The Economic Role of Women," p. 105.

[8] R. B. Freeman, "Labor Market Discrimination: Analysis, Findings, and Problems," *Frontiers of Quantitative Economics*, ed. M. D. Intriligator and D. A. Kendrick (Amsterdam: North Holland Publishing Company, 1974), vol. 2, p. 508.

1964 Civil Rights Act" [9] but before affirmative action quotas under Revised Order No. 4 in 1971. For black male workers as a whole, firms with government contracts showed a larger increase in the earnings of black workers relative to the earnings of whites than firms without government contracts, but this difference "accounts for only about 6% of the overall change in the relative position of black workers." [10] In short, it was *antidiscrimination* or equal opportunity laws, not goals or quotas, that made the difference. Another way of looking at this is that blacks *achieved* when given equal opportunity, and were not passive beneficiaries of conferred gains.

While only segments of minority and female populations have achieved income equality with their white male counterparts, the differences between these segments and other segments of the same populations give clues as to the causes of the remaining inequalities. For example, as noted above, marital status is as crucial a variable among women in general as it is among academic women in particular. Among married women, labor force participation declines as the husband's income rises, both in the general economy and in the academic world.[11] Children have a negative effect on work participation for women in general as well as for academic women.[12] As for trends over time, there has been a generally declining trend in the proportion of women in various high-status occupations since around 1930, coinciding with earlier marriages and the baby boom,[13] but this trend began to reverse—*before* affirmative action. For example, the proportion of "professional and technical workers" who were female was 39.0 in 1950, 38.4 in 1960, and 39.9 in 1970.[14] The proportion of "college presidents, professors and instructors" who are female was 31.9 percent in 1930, falling to a low of 24.2 percent in 1960, and rising slightly to 28.2 percent in 1970.[15]

Among blacks, income parity has been achieved not only by college-educated men (and slightly more than parity achieved by

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[9] Ibid., pp. 508-509.

[10] Orley Ashenfelter, "Comments," *Frontiers of Quantitative Economics*, vol. 2, p. 558.

[11] "The Economic Role of Women," p. 96; Bowen and Finegan, *Labor Force Participation*, p. 132; Astin, *The Woman Doctorate*, pp. 60, 61.

[12] Bowen and Finegan, *Labor Force Participation*, pp. 96-105; "The Economic Role of Women," pp. 93-95; Bernard, *Academic Women*, pp. 220-222.

[13] Bernard, *Academic Women*, pp. 62, 74, 215.

[14] "The Economic Role of Women," p. 155.

[15] Ibid., p. 101.

college-educated black women) [16] but also by young (under thirty-five) intact husband-wife families outside the South.[17] For the latter, this parity was achieved in 1971, but this could hardly have been a result of goals and timetables formulated in *December* 1971 and implemented the following year. Another way of looking at the still substantial black-white income inequalities is that these inequalities exist among older blacks, blacks in the South, in "broken" families, and among the less educated. There remains a substantial agenda for further progress, but the record shows that the progress that has already occurred was the result of anti-discrimination or equal-opportunity pressures which allowed blacks to achieve sharply rising income relative to the income of whites in a few years, after decades of stagnation in the same relative position.[18] The ratio of black family income to white family income reached a peak in 1970—before affirmative action—and has *declined* slightly in 1971 and 1972.[19] It is unnecessary to blame affirmative action for the decline. It is enough that there is no evidence that goals and timetables produced any further advance, but only cast doubt on, and caused interracial bitterness over, what blacks had already achieved themselves without quotas.

Policy. The long and virtually complete exclusion of outstanding black scholars from all of the leading universities in the United States until the past generation [20] suggests that market forces alone were not enough to open up opportunities in this nonprofit sector. Indeed, economic principles would suggest that nonprofit sectors in general are less likely than other sectors to reduce discrimination in response to economic forces alone [21]—and this includes government, both local [22] and national.[23] The question is not whether there is a legitimate role for government to play in reducing discrimination, but how government should carry out its responsibilities. Affirmative action came along *after* a series of

[16] Freeman, "Labor Market Discrimination," p. 506.

[17] Wattenberg, *The Real America*, p. 128.

[18] Freeman, "Labor Market Discrimination," pp. 504, 506.

[19] Wattenberg, *The Real America*, p. 125.

[20] Winston, "Through the Back Door."

[21] Armen A. Alchian and Reuben A. Kessel, "Competition, Monopoly, and the Pursuit of Money," in *Aspects of Labor Economics*, A Report of the National Bureau of Economic Research (Princeton: Princeton University Press, 1962), pp. 157-175; Thomas Sowell, *Race and Economics* (New York: David McKay Co., 1975), pp. 166-169.

[22] Freeman, "Labor Market Discrimination," pp. 549-555.

[23] Sowell, *Race and Economics*, Chapter 7.

antidiscrimination laws and a change of public opinion. It must be judged against that background, not against a background of uninhibited discrimination in earlier eras, as its proponents like to judge it.

The crucial issue of principle is whether the focus of governmental efforts shall be statistical categories or individual rights. The crucial, practical issue is who shall bear the burden of proof—the government or those subject to its power?

Categories and statistics are a bottomless pit of complications and uncertainties. For example, an economics department with a job opening is not looking for an "economist," or even for a "qualified" economist; it is looking for an international trade specialist with an econometrics background or a labor economist familiar with manpower programs, et cetera. Statistics on how many "qualified" minority or female "economists" in general are "available" are meaningless. Neither minorities nor women are randomly distributed by field or within fields. Female economists, for example, are not distributed the same way as male economists among specialties.[24] Even to define the relevant pools for purposes of realistic goals and timetables is impossible, even if all the statistics on the profession are at one's fingertips and completely up to date—as they never are. No department can predict in which sub-specialty its vacancies are going to occur, for that involves predicting which particular members of its own department will choose to leave—and in an era of retrenchment, vacancies have more effect on hiring than does the creation of new positions.

Statistical "laws" apply to large numbers of random events. But *universities* do not hire large numbers of random academic employees; *departments* each hire small numbers of specialists within their respective fields. To establish numerical goals and timetables for such small-sample unpredictable events is to go beyond statistics to sweeping preconceptions. Nowhere can one observe the random distribution of human beings implicitly assumed by affirmative action programs. Mountains of research show that different groups of people distribute themselves in different patterns, even in voluntary activities wholly within their control, such as choice of card games or television programs, not to mention such well-researched areas as voting, dating, child-rearing practices, et cetera.

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[24] Myra H. Strober, "Women Economists: Career Aspirations, Education, and Training," *American Economic Review*, vol. 65, no. 2 (May 1975), p. 96.

The American system of justice puts the burden of proof on the accuser, but this principle has been reversed in practice by agencies administering affirmative action programs. Those subject to their power must prove that failure to achieve the kinds of employment proportions preconceived by the agency is innocent in general, and in particular colleges and universities must "validate" their job criteria—even if the government administrators could never do the same for their own jobs. No proof—or even hard evidence—was necessary for the agencies to demonstrate that the academic situation involved individual discrimination rather than statistical patterns reflecting general social conditions outside the institution. Any policy which is to claim respect as a prescriptive law must put the burden of proof back on the government, where it belongs.

A change from categorical statistical presumptions to evidence on individual cases requires a knowledge of academic norms and practices going well beyond the expertise of nonacademic government officials. The lack of such knowledge by those administering "guidelines" for higher education has been a bitter complaint among academics.[25] Certainly it is revealing when J. Stanley Pottinger can refer to the university "personnel officer" as hiring agent,[26] when faculty hiring is in fact done by individual departments, with the candidates having little or no contact with "university" officials before being hired. In any event, if professional judgments are to be subject to review in cases where discrimination is charged, that review requires at least equally qualified professionals as judges. Since academic disciplines have their own respective professional organizations—the American Economic Association, the American Sociological Association, et cetera—these organizations could readily supply panels of experts to review the reasonableness of the decisions made in disputed cases. If academic freedom and faculty self-governance are to be maintained, such a review must determine whether the original hiring decision fell within the reasonable range, *not* substitute the choice of the panel for the choice of the department.

The great problem with individual case-by-case adjudication is the backlog that can be generated—to the detriment of all and perhaps fatally so for the effectiveness of the program. There are

[25] Lester, *Antibias Regulation*, pp. 103-107.

[26] Pottinger, "The Drive Toward Equality," p. 28. The same characterization was repeated by Mr. Pottinger at a conference of the Federal Bar Association in September 1974.

some countervailing factors in the case of judgments by a panel of experts. First of all, the panel can quickly dismiss frivolous claims—especially where the claim must be based on demonstrable evidence of superiority of the candidate rejected over the candidate actually hired. Second, to go before such a panel risks public confirmation of the opposite by leading scholars in one's field. Finally, the mere fact that such a program is based on professional criteria rather than nebulous presumptions must have an inhibiting effect on claims without substance.

Remedies for demonstrable discrimination must hit those responsible, not be diffused over a sprawling entity such as a large research university. A history department which discriminates against minorities or women is unlikely to be deterred by the medical school's possible loss of a government contract. But there is nothing to prevent the government from levying a stiff fine on the specific department or other academic unit that made a discriminatory hiring decision—and taking that fine out of that department's or unit's budget for salary and research, without interruption of contracts and the often vital work being produced elsewhere in the university. Indeed, such a fine is a more credible threat, for the government and the public would often lose heavily if some university contracts were cancelled. Contract cancellation is like a nuclear weapon that is too powerful to use in any but the most extreme cases and so loses much of its apparent effectiveness. Fines are a more conventional deterrent and can be invoked whenever the occasion calls for them.

Between the original concept of affirmative action and the goals and timetables actually imposed lies an ill-conceived mixture of unsupported assumptions and burdensome requirements which remain ineffective because of their indiscriminate nature—their failure to distinguish discriminators from nondiscriminators, or to give anyone an incentive to change from one of these categories to the other. Inescapable burdens do not cause change but only bitterness. That bitterness not only has been directed against those administering affirmative action programs, but has inevitably affected the perception and reception of minorities and women in the academic world—and beyond.

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The author then considers the need for and the effects of an affirmative action program in academia. He looks behind coarse comparisons of black-white and male-female salary differentials by examining salary differentials for blacks and whites (and males and females) with comparable training and credentials within the numerous academic areas of specialization. Holding these variables constant, he finds that salaries of black academics equalled or surpassed those of white academics both before the application of numerical "goals and timetables" in 1971 and four years after. A similarly careful analysis of male-female salary differentials finds no support for the contention that male-female career differences are the result of employer discrimination. The explanation, Sowell suggests, is more likely to be found in social mores that cause marital and family responsibilities to fall disproportionately on women.

Thomas Sowell is professor of economics at the University of California, Los Angeles, and an adjunct scholar of the American Enterprise Institute and a fellow of the Hoover Institution on War, Revolution and Peace.

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